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8

9 **UNITED STATES DISTRICT COURT**
10 **CALIFORNIA NORTHERN DISTRICT (OAKLAND)**
11

12
13 Andres Gomez,
14
15 Plaintiff,

16 vs.
17

18 Judith M Naimo,
19 Defendant,
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21
22

CASE NO.: 4:21-cv-07328-SBA

The Honorable Sandra Brown
Armstrong

DEFENDANT'S SUPPLEMENTAL
BRIEF RE ADDITIONAL
AUTHORITY

Hearing Date: 2/9/22

Hearing Time: 2:00 PM
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1 **DEFENDANT’S SUPPLEMENTAL BRIEF RE NOTICE OF ADDITIONAL**
2 **AUTHORITY**

3 **I. INTRODUCTION**
4

5 On December 13, 2021, Defendant, Judith Naimo, filed a Motion to Dismiss
6 set to be heard on February 9, 2022, at 2:00 PM. Plaintiff filed its Opposition on
7 January 19, 2022. On February 4, 2022 the Court vacated the hearing scheduled
8 for February 9, 2022, and announced that the Motion was under submission.
9
10 (Dkt. 18).
11

12 The ruling has not been filed at this writing. In the interim, new material
13 facts (and authority) have emerged which are likely to directly affect the issue of
14 Plaintiff's standing.
15

16 **The first Supplemental Brief re Additional Authority was filed on**
17
18 **March 28, 2022 (Dkt. 20). This is the second.**

19 In September, 2021, serial filer Mr. Andres Gomez (hereinafter also
20 "Plaintiff") began executing a plan to file suit against real estate agents / brokers
21 in Napa under the ADA. Plaintiff filed suit against dozens, alleging he desired to
22 buy property in Napa, that he was a "prospective customer," that he wanted to
23 view houses for sale, particularly those featured on the Websites operated by each
24 defendant agents/brokers, but could not because they were not readable using
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1 screen reader software (SRS).

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3 What Plaintiff (and his attorneys) failed to realize was that Plaintiff had,
4 months earlier, testified at a deposition in *Gomez v. Aslan*, (Case Number:
5 21STCV17753, Superior Court of California, County of Los Angeles, The
6 Honorable Gregory Alarcon), that he was domiciled in Florida, and collected
7 around \$900 a month in SSDI Benefits. Being a "prospective customer" for Napa
8 property was simply implausible. Yet, each complaint alleged:
9

10
11 *"Plaintiff was a prospective customer who wished to access Defendant's*
12 *goods and services of the Real Estate. ¶ 16; Plaintiff visited the Website in March*
13 *2021 and July 2021 with the intent get [sic] information about houses on sale in*
14 *Northern California. ¶ 17."*
15
16

17 In truth, Plaintiff was never a "prospective customer." This became apparent
18 when the Court, in *Gomes v. Gates*, below, gave Plaintiff an ultimatum. Judge
19 Alsup, in effect ordered Plaintiff to either admit that he is unable to afford
20 property in Napa and to dismiss the case, or to testify at a deposition wherein he
21 would be unable to object to scrutiny into his financial affairs.
22
23

24 Backed into a corner, Plaintiff did an about-face, and admitted - under
25 penalty of perjury - that he was, in effect, not a prospective customer and instead
26 a "window shopper," a "dreamer." Yes, a window shopper, and a dreamer.
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1 This attorney represents the defendants in the following - identical Gomez
2
3 cases - which have each been dismissed for lack of jurisdiction:

4 ***Dismissed on January 12, 2022: Gomez v. Smith***, Case Number:
5 3:21-cv-07154-RS, U.S. District Court, Northern District of
6 California (San Francisco), The Honorable Richard Seeborg

7 ***Dismissed on February 15, 2022: Gomez v. Gates Estates, Inc.***,
8 Case Number: 3:21-cv-07147-SK, U.S. District Court California
9 Northern District (San Francisco), The Honorable William Alsup

10 ***Dismissed on April 22, 2022: Gomez v. Magliocco Group Inc.***,
11 Case Number: 3:21-cv-07148-JCS, United States District Court,
12 Northern District of California, The Honorable Vince Chhabria

13 ***Dismissed on April 26, 2022: Gomez v. Corro, et al.***, Case
14 Number: 3:21-cv-07085-SI, United States District Court for the
15 Northern District of California (San Francisco), The Honorable
16 Susan Illston

17 ***Dismissed on April 27, 2022: Gomez v. Buresh***, Case Number:
18 4:21-cv-08138-KAW, United States District Court, Central District
19 of California, The Honorable Kandis A. Westmore

20 ***Dismissed on May 16, 2022: Gomez v. Lesti Real Estate, Inc.***,
21 Case Number: 3:21-cv-09554-SI, U.S. District Court, California
22 Northern District (San Francisco), The Honorable Susan Ilston

23 ***Dismissed on May 24, 2022: Gomez v. Miersch***, Case Number:
24 3:21-cv-8936-CRB, U.S. District Court, Northern District of
25 California, San Francisco Courthouse, The Honorable Charles R.
26 Breyer

27 ***Dismissed on June 13, 2022: Gomez v. Wunderlich, et al.***, Case
28 Number: 3:22-cv-00355-TSH, U.S. District Court, California
Northern District (San Francisco), The Honorable Thomas S.
Hixson

Dismissed on June 24, 2022: Gomez v. Sperow, Case Number:
4:21-cv-07852-YGR, United States District Court for the Northern
District of California (Oakland), The Honorable Yvonne Gonzalez
Rogers

Dismissed on August 19, 2022: Gomez v. Davis, Case Number:
3:22-cv-00789-CRB, U.S. District Court, Northern District of
California, San Francisco Courthouse, The Honorable Charles R.
Breyer

